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Supreme Court, U.S.
FILED
MAR 25 1999
CLERK

No. 98-1365

In The

Supreme Court of the United States

October Term, 1998

HCA HEALTH SERVICES OF TEXAS, INC.
d/b/a SPRING BRANCH MEDICAL CENTER,

Petitioner,

v.

KELVIN WASHINGTON,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

RESPONDENT'S BRIEF IN RESPONSE TO WRIT

AHMAD & ZAVITSANOS, P.C.

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QUESTION PRESENTED

Whether a court should consider an individual's mitigating measures when determining whether that individual is "disabled" under the ADA?

PARTIES TO THE PROCEEDING

The petition accurately lists the parties to the proceeding.

STATEMENT OF THE CASE

While Respondent, Kelvin Washington, disagrees with Petitioner, HCA Health Services of Texas, Inc. d/b/a Spring Branch Medical Center's position, Respondent notes that this Court has agreed to review *Sutton v. United Airlines, Inc.*, 130 F.3d 893 (10th Cir. 1997), *cert. granted*, ___ U.S. ___, 119 S. Ct. 790 (1999); *Murphy v. United Parcel Service, Inc.*, 141 F.3d 1185 (10th Cir. 1998), *cert. granted*, ___ U.S. ___, 119 S. Ct. 790 (1999); and *Albertsons, Inc. v. Kirkingburg*, 143 F.3d 1228 (9th Cir. 1998), *cert. granted*, ___ U.S. ___, 119 S. Ct. 791 (1999), reviewing the precise issue for which the petitioner seeks certiorari in this case. In light of the fact that the Supreme Court has accepted review of this issue, Respondent respectfully requests review of this case as well since the unique facts in this case may assist in the Court's determination of the issue the Supreme Court has accepted for review. However, Respondent is in opposition to a reversal of the Court of Appeals' decision in this case.

Dated: March 26, 1999.

Respectfully submitted,

AHMAD & ZAVITSANOS, P.C.

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